

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

SOCIAL SECURITY AND VETERANS' ENTITLEMENTS AMENDMENT BILL 1987

(Explanatory Memorandum on amendments and new clause to be moved on behalf of the Government)

(1) Protection against garnishing by creditors

Clause 24 of the Bill would remove section 135TD of the Principal Act and insert a new section 135TD.

New Clause 23A (amendment no 5) would provide protection, as currently exists in subsection 135TD(7) of the Principal Act, to prevent garnishing by third parties of social security entitlements deposited directly in a bank account.

By amendment No 1, this provision would commence on the same date as the proposed clause 24.

By amendment No 4, a transitional provision would ensure that subsection 135TD(7) of the Principal Act continues to protect against existing garnishee orders.

(2) Withdraw provisions relating to debts incurred by spouse

Subsection 140(2) of the Principal Act sets out the powers to deduct amounts owing by that person by way of overpayment from continuing entitlements of the person under the Act. Subsections 140(3) and 140(4) limit the circumstances in which deductions of this nature may be made from family allowances.

Clause 27(c) of the Bill would delete subsections 140(3) and 140(4) and insert a new subsection 140(3). This would have the effect of extending the power of direct deduction by first removing the protection against direct deduction from family allowance. Second a person's continuing entitlement may be deducted to offset overpayments to his or her spouse.

Amendment No 6 would omit the proposed new subsection 140(3).

Similar proposed provisions would be removed from the Veterans' Entitlements Act 1986 (amendment No (8)) and from the Seamen's War Pension and Allowances Act 1940 (amendment No (10)).

Amendment Nos 9 and 11 are consequential amendments.

Further, by amendment No 7, the proposed new subsection 65(7) of the Veterans' Entitlements Act 1986, to be inserted by clause 39 of the Bill, will be omitted. This new subsection would have permitted deduction from Special Temporary Allowance (which is payable to a surviving spouse) to offset amounts incorrectly paid after the death of a spouse.

Amendment Nos 2 and 3 are consequential amendments to remove the references to clause 39 from the commencement and application provisions.